

AN ORDINANCE

AMENDING, the Comprehensive Development Code of the City of Marietta.

NOW, THEREFORE BE IT HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MARIETTA, GEORGIA, THAT:

Section 1: Division 718, Administration and Enforcement, is hereby amended as follows:

718.01 Administration authority

The Director of the Department of Development Services shall administer and enforce this article including departmental approval of all development permits. If the Director or his designated representative shall find that any of the provisions of this article are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Director shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures including illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this article to ensure compliance with or to prevent violation of its provisions.

718.02 Administrative variances

A. The Director of the Department of Development Services is hereby authorized to grant variances (except for density and use) from the development standards of this article, where, in their opinion, the intent of the article can be achieved and equal performance obtained by granting the variance. A fee of \$25 per standard varied shall be charged. The authority to grant such variances shall be limited to 10% of any development standard except as noted below:

- Front or major side setbacks - up to 20 feet.
- Side setback - up to 4 feet per side.
- Rear setback - up to 10 feet.
- Buffer area - up to 10 feet.
- Required parking - 20% of the total required

B. Procedures for processing the request for an administrative variance:

1. Application. Applications for administrative variances shall be filed with the Department of Development Services. The following documents shall be required:
 - a. Completed application with all applicable signatures
 - b. Required fee
 - c. Survey, site plan, or drawings necessary to convey all relevant information

2. Adjacent Property Owners. The applicant shall be responsible for notifying all adjacent property owners (excluding property owners across a public or private street) of the request. Written responses shall be forwarded to the Director of Development Services. If the applicant is able to provide written consent of all adjacent property owners, the posting period listed below in Section 3 shall be waived. The applicant shall provide proof to the Director of Development Services that an attempt to contact adjacent property owners was made prior to a decision being reached.
3. Posting. Staff shall post in a conspicuous place on the subject property a sign or signs, which shall contain notice of the request and an administrative decision date, for a minimum of seven (7) calendar days.
4. Decision. The Director of Development Services shall make a decision on the request after the sign has been posted for a minimum of seven (7) days as listed above or written consent is received from all adjacent property owners, whichever is sooner.
5. Notification and Appeal. After the Director of Development Services reaches a decision on the request, staff shall notify all adjacent property owners in writing of the outcome and appeal process specified under Section 718.06.

718.03 Review of development permit applications

- A. A review shall be required for any proposed use of land before any building permit is issued or any improvement, grading or alteration of land or building commences to determine compliance with all provisions of this article. Site plans and other development plans required to be submitted under the provisions of this article shall be prepared only by those currently registered for such work in accordance with applicable state laws; plans for structures whose value exceeds \$10,000 shall be prepared by a registered engineer or architect. Development permit applications shall be reviewed by the Director of the Department of Development Services and shall be accompanied by complete plans signed by the author. Such plans shall provide:
 1. A 24 hour contact,
 2. A scale drawing showing the actual shape and dimensions of the lot to be built upon, the exact sizes and locations on the lot of the buildings and accessory buildings then existing, and the lines within which the proposed building or structure shall be erected or altered,
 3. The existing or intended use of each building or part of a building,
 4. The number of families or housekeeping units the building is designed to accommodate,
 5. The location of all bulk sanitation containers, and
 6. Such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for enforcement of this article.
- B. Approval of preliminary plat in accordance with all applicable provisions of the subdivision or planned development regulations shall constitute approval of the development permit for such subdivision or development.
- C. All building permits approved by the City shall in no case grant any building permit for the use, construction or alteration of any land or building if the land or building as

proposed to be used, constructed or altered would be in violation of the provisions of this article or any other codes and laws of the city or the state, except as provided herein.

718.04 Schedule of fees, charges and expenses

The City Council shall establish a schedule of fees, charges and expenses and a collection procedure for building permits, rezoning and variance applications, special land use permits and other matters pertaining to this article. The schedule of fees shall be posted in the office of the Director of the Department of Development Services, and may be altered or amended only by the City Council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

718.05 Building inspector

The duties of the building inspector with respect to this article shall include, but not be limited to:

- A. The issuance of building permits in accordance with all provisions of this article.
- B. Making field inspections to determine that the building or structure being constructed, reconstructed, moved or structurally altered or used is being pursued in accordance with the site plan for which a building permit has been issued. The building inspector shall issue citations when a violation is found to exist so that appropriate legal action may be taken to insure compliance.
- C. Determining, to the best of their ability, that all construction has been completed in accordance with all applicable City code requirements prior to allowing occupancy.

718.06 Appeals from decisions of the Director of the Department of Development Services

It is the intention of this article that all questions arising in conjunction with the administration, interpretation and enforcement of this article by the Director of the Department of Development Services may be appealed to the Board of Zoning Appeals. All appeals of the decision of the Director of the Department of Development Services must be submitted in writing to the Department of Development Services within 10 days of the written decision.

718.07 Remedies

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be in violation of any provision of this article, the Director of the Department of Development Services or any other appropriate authority of the city may, in addition to other remedies, and after due notice of the violation to the owner and/or any other person in violation of this article, issue a citation for violation of city code requiring the presence of the violator in the municipal court, institute an injunction or other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use to correct or abate such violation or to prevent the

occupancy of such building, structure or land. The Director of the Department of Development Services may, in addition to other remedies, notify that utility service be withheld therefrom until such time as the structure or premises is no longer in violation of these regulations.

718.08 Penalties for violation

Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined up to \$500 for each violation and/or imprisoned for not more than six months, or both, and in addition, shall pay all costs and expenses involved in each separate offense. Except for a different violation, each day such violation continues shall be considered a separate offense, but only after the passage of 30 days from the date of conviction. Nothing herein contained shall prevent the City of Marietta from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 2: It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses, and phrases are severable and if any section, paragraph, sentence, clause, or phrase of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

Section 3: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

Section 4: This Ordinance shall be effective upon signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

Final Ordinance submitted by:

Brian Binzer, AICP
Director of Development Services

Approved as to Form:

Doug Haynie, City Attorney

Approved by City Council:

DATE: October 9, 2013

APPROVED:

R. Steve Tumlin, Mayor

ATTEST:

Stephanie Guy, City Clerk